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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,380	09/30/2003	Jeyhan Karaoguz	14763US02	6855
23446	7590	08/11/2009		
MCANDREWS HELD & MALLEY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			EXAMINER	
			AHMED, SALMAN	
			ART UNIT	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/675,380	<b>Applicant(s)</b> KARAOGUZ ET AL.
	<b>Examiner</b> SALMAN AHMED	<b>Art Unit</b> 2419

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 April 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-31 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-31 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application  
6) Other: \_\_\_\_\_

**DETAILED ACTION**

Claims 1-31 are pending.

Claims 1-31 are rejected.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 2-8, 10-12, 14-18, 20-22, 24-28 and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rochberger (US PAT 6272107) in view of Schwengler (US PAT 6678259).

Regarding claim 1, Rochberger teaches a method comprising: establishing a second communication path (figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16, path going through elements 24 and 26) that is independent of a first communication path (figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16, path going through elements 16 and 18) that

couples at least two end points via at least a first broadband (i.e. ATM) network (column 10, lines 14-20, the principle of the method of the first embodiment is that two call paths are set up between the source and destination nodes: a primary call path and a redundant, i.e., secondary, call path. The two call paths are, however, associated with each other in the switching tables of the two end nodes, i.e., the source and destination nodes), wherein each network connection on first communication path (figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16, path going through elements 16 and 18) between at least two end points (column 10 line 20, two end nodes, i.e., the source and destination nodes), has a corresponding redundant network connection (figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16, path going through elements 24 and 26) on second communication path, and wherein first and second communication paths are of different types (column 10 lines 14-20, different types are satisfied by one path being primary and the other being redundant); and transferring information that would be normally transferred over first communication path between at least two endpoints via established second communication path over corresponding redundant network connection (column 12 lines 10-15, at this point, data flows from the source user to the destination user over the redundant path (which is now the active path). Both the source and destination users are unaware that a break occurred in the active path aside from a short interruption in the flow of data cells).

Rochberger does not explicitly teach, primary and secondary path being different communication type.

Schwengler in the same or similar field of endeavor teaches primary and secondary path being different communication type (Abstract, column 3 lines 53-55, the

redundant or secondary communication path may be a different line of sight path to the same or a different transmitter, or may be a lower frequency communication path. It is to be appreciated that this embodiment of the present invention, utilizing a primary and a secondary transmitter, allows a lower frequency non-line of sight link to be used as a backup for a primary communication path that does require line of sight).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate in Rochberger's system/method the steps of primary and secondary path being different communication type as suggested by Schwengler. The motivation is that (as suggested by Schwengler, column 4 lines 42-47) by using different communication types for primary and backup paths, network can be made to be more reliable in case of failure in the primary path; thus overcome the problems associated with primary path failure by utilizing the appropriate different communication path to get around the fault. Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces/market place incentives if the variations are predictable to one of ordinary skill in the art.

In regards to claim 2, Rochberger teaches provisioning said established second communication path for handling communication functions (column 7 lines 12-32).

Regarding claim 4, Rochberger teaches temporarily storing the information during the transferring of the information between the at least two endpoints via the established second communication path (Figure 4, switch tables).

Regarding claim 5, Rochberger teaches the first communication path is a physical communication path (figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16, path going through elements 16 and 18).

Regarding claim 6, Rochberger teaches the second communication path is a logical communication path (column 7 lines 12-32, SVC).

Regarding claim 7, Rochberger teaches the second communication path is at least one of a circuit switched connection and a packet switched connection (figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16, path going through elements 24 and 26 having SVC over ATM).

Regarding claim 8, Rochberger teaches the at least two endpoints comprises a first source endpoint and at least a first destination endpoint (column 10, lines 14-20, the principle of the method of the first embodiment is that two call paths are set up between the source and destination nodes: a primary call path and a redundant, i.e., secondary, call path. The two call paths are, however, associated with each other in the switching tables of the two end nodes, i.e., the source and destination nodes).

Regarding claim 10, Rochberger teaches the second and the first communication path comprises at least one of a wired (figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16, path going through elements 24 and 26 having ATM) and a wireless communication link.

Regarding claims 11, 12-18 and 20, Rochberger teaches a computer-readable medium having stored thereon, a computer program having at least one code section (figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16, elements 14 and 20 having associated hardware and software) and in view of Schwengler disclose all the limitations as

discussed in the rejection of claims 1, 2, 4-8 and 10 and are therefore apparatus claims 11, 12-18 and 20 are rejected using the same rationales.

Regarding claims 21, 22, 24-28 and 30, Rochberger teaches a system comprising one processor executing a provisioning protocol (figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16, elements 14 and 20 having associated hardware and software related to provisioning protocol) and in view of Schwengler disclose all the limitations as discussed in the rejection of claims 1, 2, 4-8 and 10 and are therefore apparatus claims 21, 22, 24-28 and 30 are rejected using the same rationales.

Regarding claim 31 Rochberger teaches at least one processor comprises one or more of a media processing system processor, a media management system processor, a computer processor (figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16, elements 14 and 20 having associated processor hardware), a media exchange software processor and a media peripheral processor.

4. Claims 3, 9, 13, 19, 23 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rochberger and Schwengler in view of Doi et al. (US6970919, hereinafter Doi).

In regards to claim 3, Rochberger and Schwengler teaches all the limitations of claim 1 above.

Rochberger and Schwengler do not explicitly teach provisioned communication functions further comprises at least one or more of operations administration maintenance and provisioning (OAM&P), roaming, user authentication, media transfer, caching, storage management and addressing management.

Doi in the same or similar field of endeavor teaches provisioned communication functions further comprises at least one of operations administration maintenance and provisioning (OAM&P), roaming, user authentication (see column 12 line 44-49), media transfer(see column 4 line 29-34), caching, storage management (see column 4 line 5) and addressing management (see column line 24-33).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate in Rochberger and Schwengler's system/method the steps of provisioned communication functions further comprises at least one or more of operations administration maintenance and provisioning (OAM&P), roaming, user authentication, media transfer, caching, storage management and addressing management as suggested by Doi. The motivation is that provisioning diverse usage of a communication link makes the network robust and flexible. Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces/market place incentives if the variations are predictable to one of ordinary skill in the art.

In regards to claim 9, Rochberger and Schwengler do not explicitly teach the at least two endpoints is at least one of media processing systems, media peripherals, personal computers, third (3rd) party media providers, third (3rd) party storage vendors and channel information servers.

Doi in the same or similar field of endeavor teaches the at least two endpoints is at least one of media processing systems, media peripherals (see column 5 line 3), personal computers, third (3rd) party media providers (see column 4 line 5-6 and figure

1 box 3- 1, 3-2, and 3-3), third (3rd) party storage vendors (see figure 1 box 2) and channel information servers (see figure 2 box 13 VOD service).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate in Rochberger and Schwengler's system/method the steps of at least two endpoints is at least one of media processing systems, media peripherals, personal computers, third (3rd) party media providers, third (3rd) party storage vendors and channel information servers as suggested by Doi. The motivation is that provisioning diverse type of devices for usage of a broadband communication link makes the network robust and flexible for the end users. Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces/market place incentives if the variations are predictable to one of ordinary skill in the art.

Regarding claims 13 and 19, Rochberger teaches a computer-readable medium having stored thereon, a computer program having at least one code section (figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16, elements 14 and 20 having associated hardware and software) and disclose all the limitations as discussed in the rejection of claims 3 and 9 and are therefore apparatus claims 13 and 19 are rejected using the same rationales.

Regarding claims 23 and 29, Rochberger teaches a system comprising one processor executing a provisioning protocol (figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16, elements 14 and 20 having associated hardware and software related to provisioning protocol) and disclose all the limitations as discussed in the rejection of

claims 3 and 9 and are therefore apparatus claims 23 and 29 are rejected using the same rationales.

***Response to Arguments***

5. Applicant's arguments see pages 12-18 of the Remarks section, filed 4/28/2009, with respect to the rejections of the claims have been fully considered and are moot in view of new ground of rejections presented in this office action.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SALMAN AHMED whose telephone number is (571)272-8307. The examiner can normally be reached on 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571)272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Salman Ahmed/

Examiner, Art Unit 2419